IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 6098 of 2007(A)

OS.668/1991 of I ADDL.MUNSIFF COURT,ERNAKULAM

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PETITIONER: PETR.IN I.A.11331/06 & 2ND PLNTFF.IN O.S.668/91

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A.MANI,S/O.LATE SRI.AYYAPPAN,
CHATHANAM CHIRAYIL HOUSE, THUTHIYOORKARA,
THRIKKAKARA,KAKKANAD, ERNAKULAM.

BY ADV. SRI.K.MOHAN
SRI.S.SOMAN

RESPONDENTS: REPTS.IN I.A.11331/06 & DEFTS. IN O.S.668/91

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1. KUTTAN,S/O.CHOTHI,
CHATHANAM CHIRAYIL HOUSE,THUTHIYOORKARA,
THRIKKAKKARA,KAKKANAD,ERNAKULAM.

2. GOPALAN, S/O.KUTTAN,
-DO- -DO-

3. KUMARI, W/O.GOPALAN
-DO- -DO-

4. ARUN GOPALAN, S/O.GOPALAN,
-DO- -DO-

5. ASWATHY GOPALAN, D/O.GOPALAN,
-DO- -DO-

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.P.BALACHANDRAN, J.**

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W.P.(C)NO.6098 OF 2007

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Dated this the 23rd day of February 2007

**JUDGMENT**

The petitioner is the second plaintiff in O.S.668/91. He moved I.A.11331/06 in the court below for return of the original Ext.A2 sale deed produced by him substituting certified copy thereof furnished by him. The said application has been dismissed by the court below on 18.12.2006 for the reason that the document is marked as an exhibit and is required for the suit and it will be returned only in accordance with Order XIII Rule 9(b). It is the said order that is assailed before me.

2. It is worthy to note that the document Ext.A2 is a registered sale deed and certified copy thereof has been furnished also by the petitioner for being substituted. The proviso to Order XIII Rule 9(b) provides that document marked can be returned accepting certified copy, on undertaking by the petitioner to produce the original at a later stage, if so required.

3. In the result, allowing this writ petition I set aside the order passed by the court below on I.A.11331/06 in O.S.668/91 and direct the court below to return the original Ext.A2 sale

deed to the petitioner who has produced it substituting the certified copy thereof produced by him and on undertaking by the petitioner that he will produce the original itself if required, as and when called for.

This writ petition is disposed of with the above direction.

**K.P.BALACHANDRAN, JUDGE**

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